



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/168764

PRELIMINARY RECITALS

Pursuant to a petition filed September 18, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on October 13, 2015, at West Bend, Wisconsin.

The issue for determination is whether Petitioner's BadgerCare+ was correctly discontinued because of income in excess of BadgerCare+ income limits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Julie Williamson

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Washington County.
2. Petitioner was notified that his BadgerCare+ Medicaid was to be discontinued effective October 1, 2015 because of income in excess of program income limits.
3. Petitioner's household size is 4; 2 adults and 2 children.

4. Petitioner became eligible to receive Social Security disability benefits and that information and the benefit amount was auto populated into Petitioner's BadgerCare+ case information. That income, in addition to other income of Petitioner and his spouse was over the BadgerCare+ income limit and the case closure noted at Finding # 2 was issued.
5. The total income for Petitioner's household was determined to be \$2884.64 and consists of Petitioner's Social Security of \$1336.00, his wife's Social Security of \$1188.90 (before a Part A & B premium of \$104.90) and Petitioner's earned income of \$359.74.
6. Petitioner had submitted some additional Social Security information to the agency shortly before the hearing. That information indicated that Petitioner's actual Social Security payments did not begin until November or December 2015 and based on that the agency concluded that Petitioner's BadgerCare+ eligibility would terminate as of December 1, 2015.

DISCUSSION

BadgerCare+ is Wisconsin's Medicaid program for those who are not elderly or disabled. Effective April 1, 2014, Wisconsin state law changed and lowered the amount of adjusted gross income a household can have and still be eligible for benefits to 100% of the Federal Poverty Level for adults and 300% for children. *Wis. Stat. § 49.471(4)(a)*. This change was to be effective January 1, 2014 but was held off until April 1 to assure coordination with other changes in healthcare options; especially the Affordable Care Act. 100% of the Federal Poverty Level for a 4 person household was \$2020.83 per month as of February 1, 2015. *BadgerCare+ Eligibility Handbook (BEH), §50.1*. Social Security income, except for SSI, is counted as income for BadgerCare+ purposes. *BEH, §16.5, #3*. Finally, spouses are included in the same BadgerCare+ group. *BEH, §2.3.2.1*.

Under modified adjusted gross income rules the following deductions form page 1 of Federal Tax Form 1040 are allowed:

1. Student Loan Interest
 2. Higher Education Expenses
 3. Self-employment Tax Deduction
 4. Spousal Support, Alimony or Maintenance
 5. Teachers' Tax-Deductible Expenses
 6. Self-employed SEP, Simple or Qualified Plan Contributions
 7. Penalties for Early Withdrawal of Funds
 8. Performing Artists Tax-deductible Expenses
 9. Military Reserve Members' Tax-deductible Expenses
 10. Out-of-pocket Costs for a Job-related Move
 11. Loss from Sale of Business Property
 12. Individual Retirement Account (IRA) Contributions
 13. Fee-based Official Tax-deductible Expenses
 14. Domestic Production Activities Deduction
 15. Allowable Write-in Expenses
- See BEH, §16.3.3.*

Further, the following pretax payroll deductions are allowed:

1. Health Insurance premium payments, including pre-tax premium payments for medical, dental or vision plans
 2. Health Savings Account (including flexible spending accounts) contributions
 3. Retirement contributions
 4. Parking & Transit costs
 5. Child Care Savings Account contributions
 6. Group Life Insurance premium payments
- See BEH, §16.3.2.*

There is no evidence that these deductions are involved here. As noted at Finding #4, Petitioner's income is in excess of \$2020.83. Based on this, the agency correctly determined that Petitioner's BadgerCare+ is to be discontinued.

CONCLUSIONS OF LAW

That Petitioner's BadgerCare+ was correctly discontinued as the evidence demonstrates that income is over the BadgerCare+ income limits.

THEREFORE, it is

ORDERED

That this appeal is dismissed

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 27th day of November, 2015

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 27, 2015.

Washington County Department of Social Services
Division of Health Care Access and Accountability